IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8831 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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MAHA GUJ.BANK EMPLOYEES' ASSN.

Versus

PUNJAB & SIND BANK

Appearance:

1. Special Civil Application No. 8831 of 1991

MR KETAN A DAVE for Petitioner No. 1

MR MINESH C DAVE for Petitioner No. 2

MR PV NANAVATI for Respondents

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 12/08/2002

ORAL JUDGEMENT

By means of filing this petition under Article 226 of the Constitution, the petitioners i.e.

Maha-Gujarat Bank Employees' Association, Ahmedabad, and Mr. Prakash R.Tailor, have prayed that services of Mr. Tailor, i.e. the petitioner no.2, who is employed as a temporary peon since October 1, 1989, with Punjab and Sind Bank, Surat Branch, Surat, be directed to be regularised with effect from the date on which he completed 240 days of service. It is also prayed that the respondents should be restrained permanently from terminating services of the petitioner no.2 on the ground that his services are not regularised.

2. The petitioner no.2 has filed an additional Affidavit on September 28, 2000, stating, inter-alia, that a Settlement dated October 16, 1992 between the Management of Punjab and Sind Bank, and their workmen, has been entered into under Section 2(p) and Section 18 of the Industrial Disputes Act, 1947, for the purpose of regularisation of services of temporary peons. A copy of the said Settlement is produced by the petitioner no.2 along with his additional Affidavit at Annexure-I. An affidavit-in-reply has been filed by Mr. Kulwant Rai Goyal, Branch Manager, Punjab and Sind Bank, Surat, controverting the averments made in the petition as also the additional Affidavit filed by the petitioner no.2.

3. Heard the learned counsel for the parties. It may be stated that this petition was filed in the year 1991 and by way of interim relief, the Court has directed the respondents not to terminate the services of the petitioner no.2. The said relief has continued till today in favour of the petitioner no.2. In view of the Memorandum of Settlement dated October 16, 1992, I am of the opinion that interest of justice would be served if the petitioner no.2 is directed to make representation to the Regional Manager, Punjab and Sind Bank, for the purpose of regularisation of his services in terms of Memorandum of Settlement dated October 16, 1992, and the Regional Manager, Punjab and Sind Bank, is directed to consider the representation together with documents produced by the petitioner no.2, in the light of the Scheme for regularisation evolved by the Bank, and having regard to the fact that the petitioner no.2 was earlier employed as peon on daily wage basis since December 1, 1986, and has been employed as temporary peon with effect from October 1, 1989.

4. For the foregoing reasons, the petition partly succeeds. The petitioner no.2 is directed to make representation for regularisation of his services to the Regional Manager, Punjab and Sind Bank, Zonal Office, Bombay, together with documentary evidence, if any,

within two weeks from today. The Regional Manager, Punjab and Sind Bank, Zonal Office at Bombay, or any other competent Authority dealing with the subject of regularisation, shall consider the representation received from the petitioner no.2 as early as possible and preferably within four months from the date of receipt of the writ. The competent Authority shall decide the representation having regard to the Scheme evolved by Memorandum of Settlement dated October 16, 1992 for the purpose of regularisation of services of temporary peons as well as the fact that the petitioner no.2 was initially appointed as peon on daily wage basis since December 1, 1986 and has been discharging duties as such on temporary basis with effect from October 1, 1989. Having regard to the facts of the case, it is further directed that if representation made by the petitioner no.2 is not favourably considered, his services would not be terminated for a period of one month from the date of receipt of final order by the petitioner no.2. Rule is made absolute accordingly, with no orders as to cost. Interim relief granted earlier is hereby vacated.

The office is directed to send copy of writ to the respondents immediately. It will also be open to the petitioner no.2 to produce certified copy of the order before the competent Authority for necessary compliance. Direct Service is permitted.

(J.M.Panchal,J.)

(patel)